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JACK VALENTI  
PRESIDENT  
AND  
CHIEF EXECUTIVE OFFICER

October 29, 2003

Re: MB Docket No. 02-230

*Dear Mr. Chairman*

A Trojan horse has been rolled up to the gates of the FCC. If allowed in, it will doom the Commission's efforts to create an effective Broadcast Flag.

The Trojan horse is called delay. Delay will allow an entire generation of noncompliant DTV devices to penetrate the marketplace, preventing effective implementation of the Broadcast Flag and putting to risk free, local broadcasting.

It comes in the form of arguments that an "expedited proceeding" could be had for selecting Table A technologies, thereby giving all technology vendors an even start. The practical effect of this proposal is to delay implementation of the Broadcast Flag for up to a year, or longer. Even if Table A technologies were approved by Jan. 1, 2004, allowing for an eighteen month production cycle would place Broadcast Flag compliant devices on the market in July of 2005. By that time, an entire year's production of Plug & Play devices will have flooded the marketplace. Devices that will not recognize or respond to the Broadcast Flag. Effective protection against Internet redistribution will be delayed for years, if not permanently.

The Commission's Plug & Play Order has already given one content protection technology, 5C, a first mover advantage in the marketplace. All Plug & Play compliant devices will contain 5C protected digital outputs. Placing the 5C technology on Table A immediately, and requiring Plug & Play devices to utilize that technology to implement the Broadcast Flag, will not increase that advantage. Failing to do so will not diminish that advantage. But it will diminish, if not destroy, the effectiveness of the Broadcast Flag.

The bottom line issue here is, and always has been, a level playing field for broadcasters. The Commission has acted to insure that cable and satellite programming will be protected against unauthorized Internet redistribution. That protection will be provided in Plug & Play compliant devices sold to consumers next year. There is no technological or business obstacle to these devices also being Broadcast Flag compliant.

The decision before the Commission is whether over-the-air broadcasters will be given a level playing field with cable and satellite delivery systems, or whether broadcasters will have to compete for high quality programming with one hand tied behind them.

The public interest in free, local, over-the-air broadcasting requires the Commission to reject calls for delay and to provide redistribution protection to broadcast content NOW, as it has already done for cable and satellite content.

  


Chairman Michael K. Powell  
Federal Communications Commission  
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cc: Commissioner Kathleen Abernathy  
Commissioner Jonathan Adelstein  
Commissioner Michael Copps  
Commissioner Kevin Martin  
Secretary Marlene H. Dortch  
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